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U.S. Army Corps of Engineers
Charleston District

Authorities

The Corps issues permits pursuant to:

Section 10 of the Rivers and Harbors Act of 1899

Section 404 of the Clean Water Act

40CFR230 Section 404(b)(1) Guidelines for Specification of Disposal Sites for Dredged or Fill Material [404(b)(1) Guidelines]

Section 103 of the Marine Protection Research and Sanctuaries Act of 1972

Related Laws

- * Coastal Zone Management Act
- * Section 401 of the Clean Water Act
- * National Historic Preservation Act of 1966
- * Endangered Species Act of 1973
- ★ Fish & Wildlife Act of 1956
- ★ Migratory Marine Game-Fish Act
- ★ Fish & Wildlife Coordination Act
- * Clean Air Act
- ★ Resource Conservation & Recovery Act of 1976
- Comprehensive Environmental Response Compensation and Liability Act of 1980
- ★ Essential Fish Habitat

Section 10 of the Rivers and Harbors Act of 1899

prohibits the unauthorized obstruction or alteration of any navigable water of the United States unless you have a permit from the Corps of Engineers

Examples of obstructions or alterations are:

- construction of any structure in or over any navigable water of the United States,
- the excavating from or depositing of material or
- the accomplishment of any other work affecting the course, location, condition, or capacity of such waters



Atlantic Ocean



Beach Nourishment



Dredging



Excavation

Section 404 of the Clean Water Act

authorizes the Secretary of the Army, acting through the Chief of Engineers, to issue permits, after notice and opportunity for public hearing, for the discharge of dredged or fill material into the waters of the United States at specified disposal sites. (See 33 CFR Part 323.)

404(b)(1) Guidelines

No discharge of fill material shall be permitted if

- there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem,
- it violates State water quality or toxic effluent standards; jeopardizes the continued existence of an endangered or threatened species; or violates the protection of any marine sanctuary
- it will cause or contribute to significant degradation of the waters of the United States.
- appropriate and practicable steps have not been taken which will minimize potential adverse impacts on the aquatic ecosystem.



Beach Nourishment

The Permit Process

The Permit Process Involves:

- Public Interest Review
- > 404 (b)(1) Guidelines
- National Environmental Policy Act

PUBLIC INTEREST REVIEW FACTORS

conservation economics aesthetics general environmental concerns wetlands historic properties fish and wildlife values flood hazards floodplain values land use navigation shore erosion and accretion

recreation water supply and conservation water quality energy needs safety food and fiber production mineral needs considerations of property ownership and, in general, the needs and welfare of the people

The National Environmental Policy Act of 1969 ("NEPA" P.L. 91-190; 42 U.S.C. 4321)

Encourages and facilitates public involvement

Requires agencies to identify and assess the reasonable alternatives

Requires agencies to avoid or minimize any possible adverse effects

Types of Permits

- Individual Permit (Standard Permits)
- Letters of Permission
- General Permits

Regional Permits

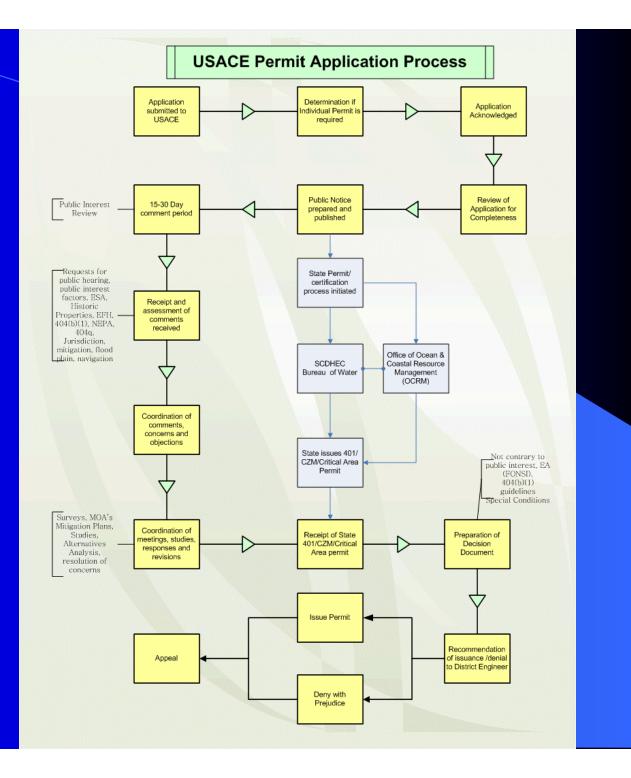
Nationwide Permits

Programmatic Permits

Individual Permits

PERMIT PROCESS FLOW CHART

(see handout)



Requests for public hearing;

public interest factors; ESA;

Historic Properties; EFH;

404(b)(1);

NEPA;

404(q);

Jurisdiction;

Mitigation;

flood plain;

navigation,

etc.

Receipt and Assessment of Comments Received

Decision Making Process

- Public Interest Factors
- Cumulative Impacts
- Secondary Impacts
- Compliance with the Endangered Species Act
- Compliance with the National Historic Preservation Act

Decision Making Process - continued

- Magnuson-Stevens Fishery Conservation Management Act (Essential Fish Habitat)
- Compliance with all applicable Memoranda of Agreement
- Impacts to Federal Projects
- Any special requirements (artificial reefs, powerlines, etc)
- Navigation
- Clean Air Act Conformity

Decision Making Process - continued

- Compliance with the 404(b)(1)
 Guidelines including (but not limited to):
 - Alternatives
 - Avoidance
 - Minimization
 - Mitigation
 - Sediment Quality
- Compliance with NEPA

For Beach Projects:

Sand source - Offshore

- Beach compatibility issues
- Survey borrow site for live bottoms
- Potential archaeological sites
- How deep will the borrow pit be dug?
- Post dredging surveys or monitoring
- Dredging method may require special conditions to permit (Hopper dredge)
- Use of Silent Inspector????

Sand source - Nearshore

- Beach compatibility issues
- Adjacent properties concerns
- Controversy over competing uses of nearshore sites

Sand source - Upland

- Beach compatibility issues-grain size, color, organic content
- Staging areas required
- Effects on truck trips on community

Endangered Species

- Initiate formal consultation with the USFWS
- Early coordination with USFWS prior to issuance of final biological condition is very helpful
- Requires special condition to federal permit to incorporate requirements of the Biological Opinion
- Construction windows for different endangered species may conflict with one another for the same project

Decision Document

- Statement of Findings
- Environmental Assessment
- FONSI
- 404(b)(1) Compliance Documentation
- Must address all other pertinent laws and regulations

General Permits

- Regional Permits
- Nationwide Permits

Contact Information

US Army Corps of Engineers
Charleston District - Regulatory Program:
PROJECT MANAGER of the DAY (843) 329-8044

SC Dept of Health & Environmental Control
Office of Ocean & Coastal Resource Management:
PROJECT MANAGER of the DAY (843) 747-4323 x101

Bureau of Water - 401 Water Quality Certification: SCDHEC - Columbia: (803) 898-4300

WEB SITES

US Army Corps of Engineers
Charleston District - Regulatory Program:
www.sac.usace.army.mil/permits

Headquarters - Regulatory Program: www.usace.army.mil/inet/functions/cw/cecwo/reg

SC Dept of Health & Environmental Control
Office of Ocean & Coastal Resource Management:
www.scdhec.net/environment/ocrm

401 Certification: www.scdhec.net/eqc/water/html/401.html

